



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 7535-01
18 January 2002

SSGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of the contested fitness reports for 1 January to 16 June 1996 and 2 August to 31 December 1996.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 January 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 20 September 2001, a copy of which is attached. They also considered your rebuttal letter dated 1 October 2001 with enclosure.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. They were unable to find the contested adverse fitness report for 24 May to 31 December 1997, submitted after your request made of 6 January 1998, was in reprisal for your having exercised your right to request redress. In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

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records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

7535-01

IN REPLY REFER TO:
1610
MMER/PERB
20 SEP 2001

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED] USMC

Ref: (a) SSgt [REDACTED] DD Form 149 of 3 Aug 01
(b) SSgt [REDACTED] E-mail of 14 Aug 01
(c) MCO P1610.7D
(d) MCO P1610.7D w/Ch 1
(e) MCO P1610.7D w/Ch 1-2
(f) MCO P1610.7D w/Ch 1-4
(g) MCO P1610.7D w/Ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 18 September 2001 to consider Staff Sergeant [REDACTED] petition in reference (a). As amplified in reference (b), removal of the following fitness reports was requested:

- a. Report A - 950501 to 951231 (AN) - Reference (c) applies
- b. Report B - 960101 to 960616 (TD) - Reference (d) applies
- c. Report C - 960617 to 960802 (TD) - Reference (d) applies
- d. Report D - 96080⁰²~~3~~ to 961231 (AN) - Reference (d) applies
- e. Report E - 970101 to 970520 (CH) - Reference (e) applies
- f. Report F - 970521 to 971231 (AN) - Reference (f) applies
- g. Report G - 980101 to 980830 (TR) - Reference (g) applies

2. The petitioner infers the appealed reports were unfair due to a biased mindset and the absence of impartiality. To support his appeal, the petitioner furnishes his own statement and copies of page 11 extracts from his Service Record Book.

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3. In its proceedings, the PERB concluded that:

a. The removal of Reports B and D is warranted and has been directed.

b. Reports A, C, E, F, and G are all administratively correct and procedurally complete as written and filed. Simply stated, the petitioner's arguments are void of fact and evidence. There has been absolutely nothing presented with reference (a) to show that the petitioner somehow rated more than what has been recorded on any of the evaluations. To this end, the Board concludes the petitioner has failed to meet the burden of proof necessary to establish the existence of either an error or an injustice.

4. The Board's opinion, based on deliberation and secret ballot vote, is that Reports A, C, E, F, and G should remain a part of Staff Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps